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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,591	06/19/2006	Simon L. Stubbs	PA0394	4011

22840 7590 09/17/2009  
GE HEALTHCARE BIO-SCIENCES CORP.  
PATENT DEPARTMENT  
800 CENTENNIAL AVENUE  
PISCATAWAY, NJ 08855

EXAMINER
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MONSHIPOURI, MARYAM

ART UNIT	PAPER NUMBER
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1656

NOTIFICATION DATE	DELIVERY MODE
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09/17/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

melissa.leck@ge.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,591	<b>Applicant(s)</b> STUBBS ET AL.	
	<b>Examiner</b> Maryam Monshipouri	<b>Art Unit</b> 1656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-47 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

**Group I**, claim(s) 1-38, 41, drawn to isolated DNA encoding a cytochrome C –reporter fusion protein, vectors and host cells comprising said products, a method of detecting apoptosis utilizing said DNA and the expression product of DNA.

**Group II**, claim(s) 39-47, drawn to methods of measuring the effect of modulators of apoptosis on a living cell utilizing said host cells and a test substance.

In addition to inventions listed as Groups I-II above each invention is additionally and independently directed to the method of use of one of the following hundreds of patentably distinct products of unrelated chemical structure and function:

- (a) cytochrome C with a single mutation at position 4 or DNA encoding it,
- (b) cytochrome C with a single mutation at position 7 or DNA encoding it,
- (c) cytochrome C with a single mutation at position 8 or DNA encoding it,
- (d) cytochrome C with a single mutation at position 25 or DNA encoding it,
- (e) cytochrome C with a single mutation at position 39 or DNA encoding it,
- (f) cytochrome C with a single mutation at position 62 or DNA encoding it,
- (g) cytochrome C with a single mutation at position 63 or DNA encoding it,
- (h) cytochrome C with a single mutation at position 64 or DNA encoding it,
- (i) cytochrome C with a single mutation at position 65 or DNA encoding it,
- (j) cytochrome C with a single mutation at position 72 or DNA encoding it,
- (k) cytochrome C with double mutation at positions 4 and 7 or DNA encoding it,
- (l) cytochrome C with a double mutation at positions 4 and 8 or DNA encoding it,
- (m) cytochrome C with a double mutation at position 4 and 25 or DNA encoding it,
- (n) cytochrome C with a double mutation at positions 4 and 39 or DNA encoding it,
- (o) cytochrome C with a triple mutation at position 4, 7 and 8 or DNA encoding it,
- (p) cytochrome C with a triple mutation at positions 4, 7, 25 or DNA encoding it,
- (q) SEQ ID NO:4 or DNA encoding it,
- (r) SEQ ID NO:6 or DNA encoding it, and
- etc.

For purposes of brevity all additional fusion proteins or DNA encoding them are not spelled out.

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When electing any of the inventions of Groups I-II, applicant is requested to simultaneously elect an invention from Groups (a) –(r ) as well. **This is not a species election.**

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical features of Group I and II are method of sue DNA and method of use of modulators , respectively, which are totally different in steps and their final end-points and share no technical feature.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571)

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272-0932. The examiner can normally be reached on Tues.-Fri., from 7:00 a.m to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Maryam Monshipouri/

Primary Examiner, Art Unit 1656

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